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UNIONS: RIGHT-TO-WORK AND RIGHT-TO-VOTE

By

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B.S., United States Military Academy, 1961

Presented in partial fulfillment of the requirements for the degree of

Master of Business Administration

UNIVERSITY OF MONTANA

1971

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## DEDICATION

I should like to dedicate this paper to my loving wife, Martha, without whose patience and assistance this paper would not have been possible.

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## CHAPTER I

### INTRODUCTION

The primary objectives of this study are to identify and describe the major factors that have led to the present structure of labor-management relations and union organization and procedures and to propose solutions to some of the problems that have developed. Specific emphasis has been placed on union security agreements and contract ratification by the workers.

The volume of materials written on the subjects of labor-management relations, labor legislation, and union structure and organization is enormous. The authors of these works range from relatively unbiased members of the academic community to corporation executives and labor union leaders. On the more specific subjects of union security agreements and the process of acceptance of collective bargaining agreements, which was the central concern of this paper, many articles and portions of books have been written. These have ranged from impassioned appeals to the emotions on the one hand to logical, factually-based rhetoric on the other. The former are important not because of their intellectual content but because they do profoundly influence the beliefs and actions of millions of Americans. The latter are important because they must be understood by anyone doing work in the field, for they are the basis of any analysis to be undertaken. Although the separate subjects have already been thoroughly covered by other writers, none of

those works readily available has attempted to relate union security agreements, or the lack thereof, with the acceptance or rejection of agreements negotiated under collective bargaining procedures.

Starting during the New Deal when they were first recognized and protected by the federal government, American unions grew rapidly during the period immediately after World War II. Today they represent one of the major forces acting upon the economy. For several years the United States has been faced with inflation. One of the contributing factors has been the rising costs which confront firms in many industries. A principal cause of the rising costs for the majority of firms is increased labor costs. Throughout the economy, the larger firms in every industry set the example for their competitors, and their sheer size gives them an aggregate influence which permeates every facet of the economy. The rates they set tend to be followed by other firms. These larger firms are also the ones which are the most likely to be unionized. Thus, it can be seen that the unions which are asking for and receiving increased compensation for the workers whom they represent are making an indelible mark on the economy of the United States. The subjects of acceptance of collective bargaining agreements and a secure union and their interrelationship are of great importance to unions; therefore, they represent worthwhile subjects for investigation by anyone studying the field of business administration.

Job security is important to everyone who works for a living. The insecure worker will be less effective than the secure worker because the former will be spending part of his efforts protecting his job while the latter can devote all of his energy to job accomplishment. Union security in the sense of the union's being secure is analogous to



job security. The union which is insecure will divert some of the effort of its officers away from promoting the best interests of its members and to protecting the union from attack. The attack against the union may come from such diverse directions as an employer who has not yet accepted the idea of a unionized work force, the right-to-work laws that some states have enacted, and raids by rival unions.

Collective bargaining is the discussion of the conditions of employment among representatives of union and management. The negotiation will hopefully lead to an agreement which both labor and management will find satisfactory or at least acceptable. The management representatives almost always have the power to bind the company to the agreement reached. The union representatives, on the contrary, normally do not have the power to bind the workers. This uneven situation is a source of disharmony in labor-management relations.

In this paper both of these phenomena have been examined separately, their relationship to one another analyzed, and solutions proposed to the joint problem of union insecurity and ratification of collective bargaining agreements. The major thesis of this paper is that if workers are no longer given the opportunity to ratify collective bargaining agreements negotiated by their union representatives but are bound by the conditions of employment mutually agreed upon by union and management, strikes over failure to ratify such agreements will be curtailed and labor-management relations will be enhanced. This, in turn, will lead to a second equally important benefit. If the worker knows that he will be bound by the agreement negotiated by the union representatives and management, just as citizens are bound by the collective judgment of the legislature, he will want to choose a representative

whose views agree with his own. To do this the worker will want to belong to the union which has exclusive bargaining rights, notwithstanding any lack of an agreement requiring union membership. Thus, with the union no longer having to justify its existence to the workers, the union officials will be able to represent more forcefully the legitimate interests of the employees; such as, increased benefits and pay and to assist the management in increasing industrial efficiency.

### Labor Legislation

The most important labor legislation of the federal government is contained in four acts of Congress. All of these acts date from the New Deal or are more recent. The first of these is the Norris-LaGuardia Act of 1932 which deals with the use of injunctions in labor disputes. The primary purpose of this act was to prevent the indiscriminate use of a court injunction by a judge at the request of management to prevent or end a strike by the workers. This legislation dates back to the period when unions and the workers they represent were still struggling for recognition from the employers.

The second major piece of legislation is the National Labor Relations Act of 1935, called the Wagner Act. This law obliged

...an employer to bargain with a union designated as exclusive representative of the employees in a given unit. The unit was to be defined by the NLRB, and the selection of representative was to be accomplished by a majority decision of the interested employees.<sup>1</sup>

The main reason for this act was to require the management to recognize for bargaining purposes the collective action of their employees expressed

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<sup>1</sup>Neil W. Chamberlain, The Labor Sector (New York: McGraw-Hill Book Company 1965), p. 282.

through the union.

The third important federal labor law is the Labor Management Relations Act of 1947, called the Taft-Hartley Act. This far-reaching piece of post-war legislation was intended to curb several different types of abuses being committed by both labor and management. The Taft-Hartley Act established methods for securing union recognition and preventing "unfair labor practices" by management and unions. The Act outlines the areas to be covered by collective bargaining.

Representatives designated or selected for the purposes of collective bargaining by the majority of the employees in a unit appropriate for such purposes, shall be the exclusive representatives of all employees in such a unit for the purposes of collective bargaining in respect to rates of pay, hours of employment, or other conditions of employment.<sup>2</sup>

The vague clause mentioning other conditions of employment continues to be subject of controversy between management and labor. Generally, the disagreements center around whether a given subject is an "other condition of employment" or whether it is a management prerogative into which the union should not intrude. Not only does this section contain this problem, but it is equally vague in mentioning "a unit appropriate for such purposes." This particular phrase has been subject of three-cornered arguing among management, the craft unions, and the industrial unions, as well as bickering within each group. Section 9 (a), however, is emphatic in the assertion that the union shall be the exclusive representative of all employees, whether or not they are members thereof. The fact of exclusive representation makes the question of who is to be the representative a critical one. In addition to this important section,

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<sup>2</sup>U.S., Labor Management Relations Act of 1947, Section 9 (a), The Practice of Collective Bargaining, Edwin F. Beal and Edward D. Wickersham (Homewood, Illinois: Richard D. Irwin, Incorporated, 1967), p. 105.

the Taft-Hartley Act has an even more controversial section.

Nothing in this Act shall be construed as authorizing the execution or application of agreements requiring membership in a labor organization as a condition of employment in any State or Territory in which such execution or application is prohibited by State or Territorial Law.<sup>3</sup>

Section 14 (b) is the well known part of the Taft-Hartley Act which supports the existence of the so-called "right-to-work" laws. From a purely political viewpoint, this section is noteworthy because it is one of the few pieces of federal legislation which allows state law to supercede federal law. From a pragmatic standpoint, this sections prevents union membership from being a condition of employment where state law prohibits it. Sometime during each session of Congress there is a concerted drive by the lobby of organized labor to have Section 14 (b) repealed. As yet, these efforts have fallen short. Each Congressional election, however, various politicians make the platform promise to attempt to get Section 14 (b) repealed.

The most recent of the four major pieces of federal labor legislation is the Landrum-Griffin Act of 1959. This act regulates the internal affairs of both unions and managements. The purpose is to prevent abuses by having full disclosure of actions.

These four acts of Congress are important because the breadth of their coverage gives them a strong influence over every aspect of labor-management relations. A basic grasp of their meaning and impact is essential to the study of labor-management relations.

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<sup>3</sup>U.S., Labor Management Relations Act of 1947, Section 14 (b), Beal and Wickersham, op. cit., p. 108.

## Union Acceptance

Notwithstanding the notoriety of some of the major labor unions, particularly the Teamsters and the various railway operating unions, with the accompanying unfavorable publicity given by the mass media, unions are, nonetheless, acceptable to the people of the United States. "...a clear majority of every major group approves the existence of unions -- whether the group is defined by region, occupation, age, income, or political party."<sup>4</sup> The fact that people, as a whole, believe that unions should be allowed to exist, however, implies no more than that they believe unions are a permanent part of the economy of this country. There are groups, in fact, who, although they accept labor organizations and the role they play, do not feel that union membership is desirable for them.

The identification of white-collar workers with management, the large portion of women employees among the clerical work force, the low prestige of unionism, and the enlightened personnel policies of most corporate management are among the main reasons that the chances of changing the present organizational patterns radically are rather slim.<sup>5</sup>

Even though union membership may not be appropriate for everyone, the widespread acceptance of unions throughout our society means that they have a firm, secure foundation in American business.

## Collective Bargaining

Collective bargaining is the process whereby representatives of

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<sup>4</sup>Derek Curtis Bok and John T. Dunlop, Labor and the American Community (New York: Simon and Schuster, 1970), p. 12.

<sup>5</sup>Julius Rezler, Automation and Industrial Labor (New York: Random House, 1969), pp. 124-25.

management and labor jointly discuss the problems and issues that are of mutual concern. The process includes the rather formalized negotiation of the labor-management contract containing the conditions of employment as prescribed in the Taft-Hartley Act. It also includes the less formalized discussions of the interpretation of the signed contract and of the grievances which may arise from time to time. Collective bargaining is the heart of the relationship between labor and management because that relationship is based on the ground rules laid down in the collective bargaining agreement. The process of collective bargaining is an intricate one.

Collective bargaining may be viewed from many angles.

The marketing concept looks upon collective bargaining as a means of contracting for the sale of labor. It is an exchange relationship. The governmental concept views collective bargaining as a constitutional system in industry. It is a political relationship. The industrial relations concept views collective bargaining as a system of industrial grievance. It is a functional relationship.<sup>6</sup>

On a broader scale it is the system whereby the terms under which labor will continue to be supplied to a company by its present employees or will be supplied in the future by newly hired workers is determined. Notwithstanding the viewpoint taken, collective bargaining is crucial; for it establishes the basic relationship between employer and employee.

The process of collective bargaining begins long before the teams of negotiators sit down on opposite sides of the bargaining table. "Preparation for negotiation involves: (1) drawing up demands, or formulating what the members want; (2) assembling information to support the demands; and (3) publicizing and explaining the demands."<sup>7</sup> The process

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<sup>6</sup>Chamberlain, op. cit., pp. 136-37.

<sup>7</sup>Beal and Wickersham, op. cit., p. 167.

involves an ordering of priorities by both sides and playing one demand against another until a satisfactory agreement can be reached. Each negotiating team must be conscious both of what his side wants, including minimum acceptable and maximum allowable positions, but also of the corresponding positions of the opposition. Bargaining involves a thorough knowledge of the strength and weaknesses of both sides as well as an understanding of the psychology of the give and take of negotiation.

The aspirations of the member must be adjusted by union negotiators to accomodate a) the conflicting desires of different groups of members, b) the longer-run interests of the members, as the leaders perceive them, c) the survival and growth of the union as an organization, d) the demands and interests of management, and e) the reaction of the community at large and its impact on the interests of the union and its members.<sup>8</sup>

If the local negotiator, who is normally an elected official,

...realizes that it would be wise for him to give ground on certain union demands but finds it difficult to do so without loss of prestige he might have the national office advise him to yield, providing him with the 'out' that he would have stood firm, but the national office overruled him. In other cases the local officers may be in a position to demand and secure fuller support from their national officers, even though the latter disapprove of the cause.<sup>9</sup>  
(Italics in the original)

The union representative is forced to reconcile the extreme demand of the workers whom he represents which have little likelihood of management acceptance with a less extreme position which is not popular with the workers but has a better chance of approval by management. In an attempt to ease the load on the union negotiator, many national and international unions require local unions to submit local agreements to them for approval. Again there is the chance for the headquarters to determine local policy by refusing to sanction what has been locally agreed to.

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<sup>8</sup>Bok and Dunlop, op. cit., p. 77.

<sup>9</sup>Chamberlain, op. cit., pp. 196-97.

Another procedure commonly used in collective bargaining is for the union negotiators to submit the agreement which they negotiated with management to their own members for ratification. This procedure is followed in the majority of cases. The literature on this subject, however, fails to reveal which specific unions do not have ratification procedures. On a much less frequent basis the management negotiator may submit his agreement to the board of directors for ratification. To be effective collective bargaining must create some sort of procedure that will enable agreements to be reached without unnecessary economic conflict and without ruining the relations between the parties. It must be economically realistic both from view of the parties and society. The problem is reconciling the need for achieving acceptable agreements with the need for reaching economically viable agreements without undue disruptions. Ratification causes disruptions in the bargaining process when rejection occurs. It has been said that "...the use of ratification votes as a bargaining technique can disrupt and distort the whole bargaining process. The dangers thus created may be more pervasive than the danger that union members will repudiate an agreement that their leaders have made in good faith."<sup>10</sup> Instead of having union members ratify the negotiated collective bargaining agreement, it is possible for the union negotiators to be empowered to agree to a final contract with management. Some unions, on the other hand, have a preliminary advisory vote on the offer of management. Rejection does not mean a strike but is only an indication that they want more. Such a practice

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<sup>10</sup>Clyde W. Summers, "Ratification of Agreements," Frontiers of Collective Bargaining, ed. John T. Dunlop and Neil W. Chamberlain (New York: Harper and Row, Publishers, 1967), p. 79.



is really only a part of the bargaining process. The negotiators may not really even support the proposals. The danger to collective bargaining caused by the tendency of some union members to reject agreements proposed by their leaders "has generated demands for reconsideration of the role of ratification and a re-examination of the problems it poses in our evolving system of collective bargaining."<sup>11</sup> Contract ratification is discussed in greater detail in a later chapter. In addition to being used for contract negotiation, collective bargaining is also employed to solve disputes arising out of an existing contract. The union has to control the grievance process in order to carry out its necessary role of reconciling the conflicting interests of diverse groups to produce the greatest benefit for the unit as a whole.

Collective bargaining has been called "a relationship between organizations," a "power relationship between organizations," a "treaty-making and treaty-enforcing process between companies and unions," and "a process of accommodation between companies and unions."<sup>12</sup> Collective bargaining is all of these things.

### Bargaining Power and Strikes

The bargaining power of companies and unions may vary greatly. It is proportional to their size and economic strength. Although these may be measured on an absolute basis, they have more meaning on a relative basis. On one hand there are giant unions such as the Teamsters

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<sup>11</sup>Ibid., p. 77.

<sup>12</sup>Frederick H. Harbison, "Collective Bargaining and American Capitalism," Industrial Conflict, ed. Arthur Kornhauser, Robert Dubin, and Arthur M. Ross (New York: McGraw-Hill Book Company, 1954), pp. 270-71.

and the Building Trades Unions who deal with small, fragmented trucking and construction firms, respectively. On the other hand, there might be a large firm whose employees are represented by many small, separate unions.

...the union may increase its bargaining power either by increasing the cost to management of disagreeing on the union's terms or by reducing the cost to management of agreeing on the union's terms.... A union or management may not always be able to alter one of these determinants of its bargaining power independently of any effect on the other determinants.<sup>13</sup>

What the union is trying to do is to make it cheaper for the company to agree to its terms than to reject them. Conversely, the firm tries to make it more profitable for the union to accept its offer than to reject it. Bargaining power consists of proposals that are economically sound and backed by the economic strength to carry them out. It has been noted, for example, that as automation decreases the size of bargaining units, their economic strength decreases. "Coalition bargaining is an attempt by a group of local and international unions, usually in an industrial setting to bargain with a multiplant, multiunion employer on a joint basis for all the employees represented by those unions."<sup>14</sup> The purpose, obviously, is to give the unions involved in coalition bargaining a greater relative strength vis-a-vis the large employer. Collective bargaining is becoming more and more centralized in many industries.

In many instances, the union can increase its bargaining power by negotiating for a larger group of employees.... As union members become aware of conditions in other plants, they are likely to protest if they receive lower wages and benefits than members doing similar

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<sup>13</sup>Chamberlain, op. cit., p. 187.

<sup>14</sup>William N. Chernish, Coalition Bargaining; a Study of Union Tactics and Public Policy (Philadelphia: University of Pennsylvania Press, 1969), p. 3.

work elsewhere.... Centralized negotiations can offer a variety of administrative advantages.... Even if a union wishes to maintain local autonomy, it may encounter heavy pressure from employers to move toward more centralized bargaining.<sup>15</sup>

The firm, as well as the union, tries to take those actions which will favorably change the relative bargaining power of management and labor. If negotiations fail, the resulting lockout or strike is really merely an extension of the bargaining power of the two parties. Just as was it an extension of politics by other means, so too is a strike or lockout an extension of industrial bargaining. The strike or lockout is another tool to be used by the parties involved. If they are unable to achieve their aims through negotiations, they may use these devices to achieve them if they feel that their goals may be more readily attained through these means. If a strike or lockout does result from negotiations, the economic consequences are significant. Strikes and lockouts cause reduced sales for the firm and reduced paychecks for the employees. The present times are, however, not as fraught with industrial strife as previously. With 1946 as an all time high in lost time due to strikes, the number of man-days idle due to strikes fell rapidly from 1945-53 but more slowly from 1954-63. The average number of man-days idle per striker fell from 1945-53 but rose from 1954-63. The number of work stoppages rose from 1945-53 and fell from 1954-63. The man-days idle as a percent of estimated working time fell rapidly from 1945-53 but more slowly from 1954-63. The number of workers involved in work stoppages fell steadily from 1945-63.<sup>16</sup> There is no clear agreement on the reason

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<sup>15</sup>Bok and Dunlop, op. cit., pp. 108-10.

<sup>16</sup>Robert Dubin, "Industrial Conflict: The Power of Prediction," Industrial and Labor Relations Review, XVIII, no. 3 (April, 1965), pp. 352-63.

for these changes. Perhaps one of the most easily accepted explanations is that unions are no longer battling the employers for recognition. As a result, unions and the workers they represent may be less militant and less strike-prone. In spite of the improving climate for labor-management relations, the collective bargaining process does have its problems. One such subject of frequent dispute is the inclusion or omission of some sort of union security provision in the collective bargaining agreement.

#### Definitions of Types of Shops

The high degree of interest over union security agreements arises because, as stated above, the Taft-Hartley Act gives the representatives of workers exclusive bargaining rights for all the workers in the shop. This exclusive representation is of vital concern to the worker, the employer, and the union. A union security provision of a collective bargaining agreement is a clause which requires employees to become members of a union or assume some financial obligation to the union. There are five principal types of shop agreements. In order of increasing demands on the worker, the first is the exclusive bargaining shop in which "there is no requirement of union membership nor must the employees be hired through the union. This weakest form of union security just guarantees the union recognition as the exclusive bargaining agent."<sup>17</sup> Second, a maintenance-of-membership provision requires present members to maintain their membership status but does not require

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<sup>17</sup>Max Sidones Wortman and George C. Witteried, (eds.), Labor Relations and Collective Bargaining; Text and Cases. (Boston: Allyn and Bacon, 1969), p. 253.

other employees to join. Third, an agency shop does not require membership but only the payment of periodic dues and assessments. Fourth, the union shop requires union membership as a condition of continued employment after a specified number of days employment have elapsed. The Taft-Hartley Act further provides that no employer shall discriminate against any employee for nonmembership in the union if membership was denied or terminated for reasons other than the payment of normal periodic dues and initiation fees. Lastly, the closed shop makes membership in the union mandatory before an employer can hire a worker. The closed shop has been illegal since the Taft-Hartley Act was passed.

The exclusive bargaining shop is really no more than including in the collective bargaining agreement that which is already guaranteed by law. The maintenance-of-membership agreement and the agency shop are not common, nor are they particularly controversial. Although the closed shop is unofficially allowed to exist in certain places, its prohibition prevents it from becoming an important problem for either management or labor. The union shop, on the contrary, is highly controversial and emotionally charged. The arguments for and against the union shop are discussed in the next chapter.

## CHAPTER II

### A SECURE UNION

The controversy over union security agreements in collective bargaining contracts is basically one over how secure is the union going to be in its position as exclusive collective bargaining agent for the workers in the firm. The presence of a union security agreement in the labor-management contract is the final overt step in securing the union's position. On a more basic level the secured position depends upon the organization of the union and its membership. These two variables, in turn, determine the likelihood that a union security agreement can be inserted into the contract between the union and the firm.

#### Union Organization

The organization of unions varies with time, space, and by the industry whose workers they represent. Notwithstanding the variations which exist in union organization, the theoretical model is a democratic one.

The union has traditionally conceived of itself not as an entity separate from its members but as a collectivity of its members. Union government is built on the democratic model, and the union asserts its claim to participate in determining terms and conditions of employment as the spokesman for employees. The statutory role of majority rule reflects the union's conception of itself as representative of the employees charged with expressing their desires.<sup>18</sup>

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<sup>18</sup>Summers, loc. cit., p. 83.

Inasmuch as the democratic tradition is deep-rooted in our political institutions, it is easily understandable that it would likewise be firmly based in our social institutions. Unions

...are, indeed, 'little republics' within the workplace. Unions see themselves as governments over working conditions; they like to refer to their conventions as parliamentary assemblies; they conceive their elections to be a replica of local and national elections; they look upon their walking delegates and business agents as a police force, upon their grievance committee as courts, upon their strikes as wars and their settlements as peace treaties. They also see their dues as proper taxes, their control of the market as a form of tariff against dangerous foreign import, their examination of membership aspirants as citizenship tests, their union and closed shop clauses as a version of the 'republic's' prerogative to impose a burden on those who would enjoy the blessings of society.<sup>19</sup>

Union officials consider the analogy perfect between the union as the government of the workers in their place of work and the political system.

"There is no better evidence that a union is a 'little nation' than the jurisdictional war between two unions. Two unions will engage in bloody battle over a handful of jobs."<sup>20</sup> The determination of union jurisdiction by election of the workers has led to contests between unions to represent the same groups of workers. Another concern in union organization is the division of power between the national or international union and the local union.

This division of power is mainly seen as a gradation of centralization from rigidly centralized on the one hand to completely autonomous on the other. Union organization is most centralized in industries where competition is national, and bargaining is national. In industries where the market is local (building construction, newspaper printing, and local

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<sup>19</sup>Gus Tyler, The Political Imperative: the Corporate Character of Unions. Introduction by F.S.C. Northrup. (New York: Macmillan and Company, 1968), p. 86.

<sup>20</sup>Ibid., pp. 194-95.

trucking), the local union is independent.<sup>21</sup>

While some officials seek more concentrated power, a few would give more power to the locals believing that it is best that the workers handle their own problems. Others are not as convinced that the workers know necessarily what is best. They call for less responsiveness to the membership. Instead, they want labor's executives to take the lead and be instead responsible to their members.<sup>22</sup>

The ones who are sceptical of the worker's knowledge of what is best are, in effect, advocating a republican system of government rather than a direct democracy. The federal government, as well as all the state and most of the local governments, are of the representative type. Only a limited number of the local governments are direct democracies. Unions are performing governmental functions in a specialized way and in specialized areas improper or inconvenient for the government itself to undertake.<sup>23</sup> There is a divergence of opinion concerning whether these functions will, in the future, tend more to be performed by the national or the local union. Some believe that national unions are less and less able to control the behavior of their locals, caused by an increasing divergence between the thinking of top union leadership and that of the membership in the plant.<sup>24</sup> Others feel that the loss of control is "as a result of the changing composition of the plant work force... the local membership is itself no longer as cohesive a group as it was a decade ago, and divergent interests within the group cannot always be reconciled

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<sup>21</sup>Lloyd George Reynolds, Labor Economics and Labor Relations. 4th ed. (Englewood Cliffs, New Jersey: Prentice-Hall, 1964), p. 86.

<sup>22</sup>Solomon Barkin and Albert A. Blum, "What's To Be Done for Labor? The Trade Unionist's Answer," Labor Law Journal, XV, no. 3 (1964), p. 79.

<sup>23</sup>Tyler, op. cit., p. 92.

<sup>24</sup>Rezler, op. cit., p. 137.



to the satisfaction of all."<sup>25</sup> Still others feel that increased centralization will be the natural result of the evolving business conditions. Industry-wide collective bargaining involving the big and decisive mass-production and distribution industries of the economy will change the structure of both management and union. The local union will eventually yield its rights and powers in collective bargaining to the international, which is a delegate organization away from local control.<sup>26</sup> Only time will tell in which direction union organization will proceed. The agreements themselves involve varying degrees of involvement. One study found that two-thirds of all contracts cover employees in a single factory, and about 80 percent of all agreements cover workers in a single firm. Although the proportion of agreements covering several companies is therefore approximately 20 percent, multiemployer agreements cover at least one-third of all employees under collective bargaining agreements.<sup>27</sup> The issue of the extent of coverage of collective bargaining agreements is one aspect of centralization of union power and organization.

#### Union Membership

The ultimate source of union strength lies in its membership. The more members a union has, the more dues it will collect. The more dues collected, the more money the union will have available to use to

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<sup>25</sup>Richard A. Beaumont and Roy B. Helfgott, Management, Automation, and People (New York: Industrial Relations Counselors, 1964), p. 289.

<sup>26</sup>Beal and Wickersham, op. cit., p. 52.

<sup>27</sup>Chamerlain, op. cit., pp. 240-44.

undertake those actions which it considers beneficial to the membership. Unions prefer dues checkoff because it both saves them effort in collection and further regulates and entrenches the union in the plant. Management opposes checkoff because it is an expense for the union's primary benefit. Management's opposition to checkoff is really rather short-sighted inasmuch as checkoff provides for smoother labor-management relations by eliminating an important source of agitation at little cost to management.

Union membership varies greatly by industry and by occupation.

TABLE 1  
UNION ORGANIZATION BY INDUSTRY<sup>28</sup>

Industry	Percent Organized
Transportation, communications, and utilities	74.7
Construction . . . . .	70.9
Manufacturing . . . . .	50.0
Mining . . . . .	47.2
Government . . . . .	14.1
Services . . . . .	10.5
Trade . . . . .	9.3
Finance and Real estate . . . . .	2.0
Agriculture . . . . .	0.8

TABLE 2  
UNION ORGANIZATION BY OCCUPATION<sup>29</sup>

Occupation	Percent Organized
Operators (semi-skilled) . . . . .	63
Craftsmen and foremen . . . . .	50
Laborers (excluding agriculture) . . . . .	38
Clerical . . . . .	26
Service . . . . .	20
Sales . . . . .	5-10
Managers . . . . .	5-10
Professional and technical . . . . .	5-10

<sup>28</sup>Bok and Dunlop, op. cit., p. 94.    <sup>29</sup>Ibid., p. 45.

Unions are stronger, obviously, in those industries and in those occupations in which a greater percentage of workers are union members. On an overall basis the percentage of organized workers is not keeping pace with the growth in the size of the work force. Through the shrinking proportion of blue collar workers, automation appears to have a particularly severe effect on three sources of union power: the exclusive jurisdiction over a particular industry or occupation, the exclusive representation of the bargaining unit, and the potential use of the strike weapon.<sup>30</sup>

It is not at all generally accepted that this reduction in the relative size of organized labor is an unfavorable occurrence. If unions can keep the supply of workers low, the wages will be higher. If more people want to work than there are openings, the union will help decide which are hired. Unions and management are currently under a great deal of pressure to correct the situation where this procedure was used as a disguise for racial prejudice. The union hiring hall and the closed shop are devices used to hold down the supply of labor. This will cause the supply curve to intersect the demand curve at a higher point on the ordinate axis resulting in higher pay for the fewer workers who are employed. Where increases in union membership have occurred,

...only 25% of union membership increases has resulted from new organizing. The remaining 75% has come either from the return of former members, who previously were unemployed, or from the expansion of employment in companies with a union-shop arrangement.... In 1953 almost 34% of the nonagricultural employees belonged to unions, whereas in 1966 only 28% belonged.<sup>31</sup>

Notwithstanding the shrinking percentage of union members in the work force, more than 60 percent of all production and kindred workers in the

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<sup>30</sup>Rezler, op. cit., p. 155.    <sup>31</sup>Ibid., p. 121.

manufacturing sector of the United States economy are employed in plants in which the majority of workers are covered by collective bargaining agreements.<sup>32</sup> In any case, the labor movement seems to be losing some of its drive and fervor. Some say that it is losing its raison d'être.

One of the original purposes underlying union growth was the existence of unsatisfactory social conditions in industry. Presently, the social discontent of prior years has been alleviated, and with its relief, one of the primary drives of the union movement has been completed. For new organizing efforts, other reasons must be found.<sup>33</sup>

With their membership roles relatively stagnant the union officials need a method whereby they can guarantee a greater percentage of members in those firms where they are already organized. The most popular way, in terms of usage, not appeal, of the union's doing this is through the union-shop contract.

#### The Union Shop -- Pro and Con

The union shop agreements between a union and a firm requires a worker who is not already a member of the union when he is hired to join the union within a prescribed number of days after being hired. If he does not join the union prior to the end of the period of grace, which is commonly one month, the non-member will lose his job. Because the union shop permits non-union workers to be hired initially, it is an improvement over the closed shop which prohibited non-members from being hired at all. The closed shop was normally accompanied by a closed union, so the non-member was effectively barred permanently from employ-

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<sup>32</sup>Labor Research Association, Labor Fact Book - 17 (New York: International Publishers, 1965), p. 117.

<sup>33</sup>Max Sidones Wortman, Jr., (ed.), Critical Issues in Labor: Text and Readings (New York: Macmillan and Company, 1969), p. 33.

ment. An improvement or not, the union shop is, nevertheless, compulsory unionism. In the eyes of many, anything compulsory is evil. The arguments in favor of and against the union shop center around whether or not this compulsion is justified, and whether or not it is legitimate.

The major argument for the union shop is that individual workers should not be able to accept the benefits secured by their union without helping to pay for the expenses involved. [However], it is not clear that every employee is better off when he is represented by a union.<sup>34</sup> (*Italics in the original*)

Does this very legitimate goal provide adequate justification for the compulsion to join a union? In a labor contract "the standard union-security provisions give the union a control over the citizen which no society can allow to a private organization and which a free society cannot even allow its government without stringent checks on its exercise."<sup>35</sup> The exercise of powers by a union

...must be exercised in a clearly defined process and by an authority which is both duly qualified and disinterested.... If these conditions are not met, the police powers of any private group become socially unbearable, no matter how vital it is for the group to have them or how desirable for society that the group prosper.<sup>36</sup>

Counterarguments are stated so as to avoid the basic issue of whether compulsory unionism does or does not violate an individual's democratic rights. This ethical and legal question remains unsettled.

...the union shop is desirable for the contribution it can make to stable industrial relations. ...a union whose security is beyond question can afford to be more reasonable on other matters -- notably promotions, layoffs, and other points at which discrimination might be practiced against union members. A union which fears for its life must necessarily try to restrict the employer at all these points.<sup>37</sup>

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<sup>34</sup>Bok and Dunlop, op. cit., p. 99.

<sup>35</sup>Peter F. Drucker, The New Society: The Anatomy of Industrial Order (New York: Harper and Row, Publishers, 1962), p. 124.

<sup>36</sup>Ibid., p. 125. <sup>37</sup>Reynolds, op. cit., p. 196.

A union shop clause is simply one to protect the union. The union which is not under constant attack by the employer can channel its efforts into more constructive areas.

...the industrial union is primarily interested in workers after they go on the payroll. Thus the typical union security of the industrial union is the union shop. Union security is a condition precedent to effective, independent employee representation. Once union security is established, management's major concern is preserving the right to manage.<sup>38</sup> (*Italics in the original*)

Management argues that workers are coerced into belonging if there is a union shop; that they must pay a third party for the privilege to work. The evidence, however, shows that most workers favor a union shop. In National Labor Relations Board balloting in over 20,000 elections, 98 percent of these favored a union shop and received over 95 percent of the votes cast. Power struggle is the basis of struggle between management and labor. A union security provision in a collective bargaining agreement entrenches the union's position in the shop, it strengthens it against attack by the employer or rival unions, and it helps make the union permanent. Management opposition recognizes these facts; it fights a delaying action. If a union can be occupied holding its membership together, it will be in a less favorable position to press fresh demands on the employer. The question to be asked is whether or not strong, stable, permanent unions are desirable for American industry. A "yes" corresponds with support for the union shop; a "no" supports the open shop. "...a union is better able to function in a peaceful and constructive way if it embraces most or all of the labor force. It is unreasonable to demand that unions be 'responsible' while at the same time denying union officers the control over their membership which

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<sup>38</sup>Beal and Wickersham, op. cit., p. 245.

would make group responsibility effective."<sup>39</sup>

The right-to-work law, as they are commonly called, is a state law which prohibits the union shop agreement. The Taft-Hartley Act (supra) allows state or territorial laws to supercede the federal law, in contrast with normal procedure. The right-to-work laws have been the most common counter to the union shop contract. They are not, however, without a great deal of controversy in their own right. "Right-to-work laws provide protection so that the right of an individual to secure and hold a job shall not be abridged by a union security agreement entered into by an employer and the union."<sup>40</sup> In contrast to this extremely critical view of the union shop, others believe that

...it is not possible for a union to exist without the union shop.... Under the Federal Labor-Management Act, the authorized union must represent all workers in the bargaining unit, must process all grievances, must service all employees whether they are members or not. Is it just, asks the union, for the organization to provide all these services to persons who refuse to pay the fare?... The union is obliged to speak for one and all not simply by law but by the laws of its own being. The modern union can also argue that the union shop is democratic, with majority rule in the shop community. This, indeed, comes much closer to the concept of the union as the worker government in the polis of the workplace.<sup>41</sup>

(Italics in the original)

The principal argument in favor of right-to-work legislation is based on the assertion that compulsory unionism is in violation of an individual's fundamental liberties guaranteed by Constitutional rights. These specific arguments include, but are not limited to: compulsory unionism is an invasion of the right of freedom of association; compulsory unionism

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<sup>39</sup>Reynolds, op. cit., p. 197.

<sup>40</sup>Merryle Stanley Rukeyser, Collective Bargaining: The Power to Destroy; New and Better Ways to Industrial Peace (New York: Delacorte Press, 1968), p. 202.

<sup>41</sup>Tyler, op. cit., p. 196.

does not exist in most democratic states; the Declaration of Human Rights of the United Nations supports the right of associations; compulsory unionism means paying tribute for a job and accepting opinions of the union leaders; and it means giving up freedom of conscience. The arguments against right-to-work laws include: majority rule is inherent in democratic procedure; employees want compulsory unionism; since union activities benefit every employee in the bargaining unit, all should pay; other organizations compel membership, such as the bar association; compulsory unions make unions secure and allows discipline; unions give employees a voice; right-to-work is an invasion of freedom of contract; right-to-work is just anti-union; and compulsory unionism promotes labor peace.<sup>42</sup>

The union shop is really a union's way of establishing itself as a polity in the shop, with its political leaders, its defined policy, its own police force. The union shop is the government that rises on the foundation of recognition, seeking security for the worker as an individual and for the union as a corporate entity. The union shop is the formalization of the union as a political corporation.<sup>43</sup>

If it is justified to make the analogy between the political government of society and the union as the government of the work place, then it seems reasonable to conclude that compulsory unionism is logical and desirable. If, on the contrary, the union is not to be viewed as the government of the work place, then compulsory unionism is an unwarranted restriction of personal liberties.

1. Public debate by the parties involved is designed to conceal the real issue relating to right-to-work legislation.
2. If one de-

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<sup>42</sup>Raymond L. Hilgert and Jerry D. Young, "Right-to-Work Legislation -- Examination of Related Issues and Effects," Critical Issues in Labor; Text and Cases, ed. Max Sidones Wortman, Jr. (New York: Macmillan and Company, 1969), pp. 378-82.

<sup>43</sup>Tyler, op. cit., p. 199.



finer right-to-work legislation as being necessary and able to protect an individual's constitutional rights, then effective right-to-work legislation would be justified and desirable. 3. Existing right-to-work laws have had little effect either in economic terms or in changing previous existing union-management relations in their states of enactment. 4. The real issue in the right-to-work battle is collective bargaining power. 5. Right-to-work legislation in its present form may not be to the over-all advantage of management forces, since it conceivably contributes to the exercise of militant and perhaps undesirable union leadership.<sup>44</sup>

The principal reason for the low level of effectiveness of right-to-work laws in overall economic terms is that none of the large, industrial states has enacted right-to-work legislation. Those states in which right-to-work legislation has been enacted were already strongly anti-union. Previously existing labor-managements were not greatly effected because of efforts to circumvent the intent of the laws.

Employers who want good relations with their unions have usually winked at the law (right-to-work), just as employers in traditional closed shop industries have winked at Taft-Hartley. Where relations are bad, however, and where the employer wants to mount a drive against the union, an anti-union shop law may give him an additional club.<sup>45</sup>

Unless the right-to-work law is fully supported by management its effect will be virtually zero. The security of the union is enhanced by the inclusion in collective bargaining agreements of union shop provisions. Only if the union is safe from attack can it afford to cooperate with management and play a constructive role in the operation of the enterprise.<sup>46</sup> The union feels that if a company fails to have a union shop it wants to get rid of the union. The union defends itself against employer attack, real and imaginary. It must have contract provisions

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<sup>44</sup>Hilgert and Young, loc. cit., pp. 385-86.

<sup>45</sup>Reynolds, op. cit., pp. 194-95.

<sup>46</sup>Ibid., p. 195.

to prevent discrimination against union men; it limits his power to select, promote, transfer, layoff, and discharge. It invents grievances to justify its own existence. It gives good service to union members and none to non-union members. The union argues that employer acceptance of the union shop would make all this unnecessary. The union officials could work on personal problems and production difficulties, giving prompt attention to genuine grievances, performing educational functions, and cooperating with management. The central point in the arguments on both sides of the questions of the union shop and right-to-work laws is the role to be played by the union. If the union is desirable, then the union shop can easily be justified. If the union is undesirable, then the union shop should be prohibited.

## CHAPTER III

### AGREEMENT ACCEPTANCE

#### Union Democracy

If the union is to be considered the government of the work place, and since governments in the United States reflect the will of the governed, then the union must, also, reflect the will of those whom it "governs." In this respect, political governments are democratic, just as union governments should be. Most unions are democratic in structure in the sense that they are based on majority rule and are governed with the consent of the governed. They do, on the contrary, "lack many of the forms, traditions, and practices of American government. They rarely have a clear separation of powers between legislature, executive, and judicial. (sic)"<sup>47</sup> On the national level in many unions the executive council carries out all three of these functions. At the local level, the shop steward performs different jobs which fall into the three different categories.

There are three primary reasons for maintaining democracy in union governments. First, democracy permits members to exert pressure on their leaders to pay attention to the rank and file. Secondly, many employees value a sense of participation they derive from helping select union officials and influencing important decisions. Thirdly, the gen-

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<sup>47</sup>Tyler, op. cit., p. 281.

eral public has a vested interest in the democratic process within unions.<sup>48</sup> A union leader is a spokesman and representative. "His power must rest on express delegation from those for whom he speaks. He must be able to claim that he has both right and power to make decisions for them. This he can only do if he is elected."<sup>49</sup> In most cases, the union officials are elected, from the shop steward through the local leader to the national or international president. In some cases there are questions and doubts concerning the circumstances under which these elections are held.

The legalistic dimension of union democracy is the existence of procedures for fair and regular elections, reasonable trial procedure in applying union discipline, and guarantees that members of the union have a right to express reasoned dissent from union policy, ...the extent to which individual members of unions feel that they are capable of influencing union policy, and their satisfaction with the policies established.<sup>50</sup>

Many, and possibly most, people think of a union as a monolithic, one-party structure. The essential ingredient is that the individual worker has some means of influencing the union policies. This might be done either through the leader in power or through the election of a new leader. With regard to his union the labor leader is an elected official, dependent upon the loyalty of fellow leaders and upon the rank and file of his organization. The greatest organizing upsurge of the thirties showed that officers who were not sufficiently responsive to the demands of industrial workers could lose power.<sup>51</sup> One reason why the union

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<sup>48</sup>Bok and Dunlop, op. cit., pp. 71-72.

<sup>49</sup>Drucker, op. cit., p. 133.

<sup>50</sup>Real and Wickersham, op. cit., p. 60.

<sup>51</sup>C. Wright Mills, "The Labor Leaders and the Power Elite," Industrial Conflict, ed. Arthur Kornhauser, Robert Dubin, and Arthur M. Ross (New York: McGraw-Hill Book Company, Incorporated, 1954), p. 148.

official who has lost touch with his constituency may be voted out of office is that his actions are visible to the workers whom he represents. Unlike a member of Congress whose actions there are not generally known to his constituents, the paid union officer responsible for servicing a shop is under constant review by the members and is judged by the results of his actions.<sup>52</sup> As a result, the dissatisfied worker knows whom to blame for the situation which confronts him.

Workers have two methods of demonstrating dissatisfaction with their union's performance at the bargaining table: by seeking to oust from office those responsible for the negotiations, or by shifting their support to a competing union so as to deprive the bargaining union of its majority status.<sup>53</sup>

As long as the individual worker has control over the union officials through the election process, it is not ipso facto bad that union control be centralized.

Centralized control of the union by a powerful leader and his machine may thus work in the public interest -- however much it goes counter to the creed of democratic unionism. While centralized control may enable the leader to be a 'labor statesman' it undermines the vigor and health of unionism and may even threaten its survival.... The greatest damage to the strength of the union -- one endangering its very survival -- may well be the effect of centralized control on the future supply of leaders.<sup>54</sup>

Centralized control is detrimental to the supply of new leaders because the incumbent is jealous of possible replacements and thus tends to suppress them. The younger men may tire of waiting and move elsewhere. When the "old man" does die, however, someone is always there to take his place, and the union does not cease to function. Both the United Auto Workers and the Teamsters have recently had a change of top command without any reduction in efficiency, and for that matter, with few changes of policy.

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<sup>52</sup>Tyler, op. cit., p. 289.    <sup>53</sup>Summers, loc. cit., p. 83.

<sup>54</sup>Drucker, op. cit., pp. 141-42.

### Minority Rights

One of the basic tenets of American democracy is that "majority rules." As a countervailing rule, the rights of the minority must not be violated. The majority will ultimately get its way, but it must not unreasonably restrict the minority. Above all, the minority must be free to express itself. In this way it might become the majority.

Majority rule may be necessary to prevent the minority from frustrating the objectives of the majority. Majority rule may also be upheld to prevent the minority from accepting the results of group action without helping to assume the burdens involved. Majority rule may also be required to safeguard the interests of persons outside the organization.<sup>55</sup>

What the authors allude to here is the union shop. The majority makes policy, and they might decide to force the minority to join the union to force them to pay their share. The controversy over the union shop is not merely over minority rights but more importantly is over union access to dollars through compulsory membership.

In a voting context minority means those people who disagree with the opinions of the majority. In another context minority means those people who are members of some particular identifiable group, particularly anyone who is not white-Anglo-Saxon-Protestant. The rights of these minorities, too, must be respected by the majority. The problem of minorities in labor unions is acute because of the heterogeneous membership of unions and their binding power through bargaining that they have over members.<sup>56</sup> The democratic union must serve all of those whom it represents. The question is how to do so.

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<sup>55</sup>Bok and Dunlop, op. cit., p. 94.

<sup>56</sup>Ibid., p. 93.

Where interest groups are inflexible and built into the occupational structure of the union (as they are in the vast majority of unions) it would appear that [two-party] democratic processes not only lead to oppression of the minority subgroups, but they probably lead to more oppression than would rule by one man.<sup>57</sup>

(Italics in the original)

This is not to imply, however, that rule by one man is to be preferred. Actually, two-party competition within a union is so rare as to be insignificant. Most unions are run by one-party, self-perpetuating oligarchies. They only have to be responsive to the opinions of the workers.

#### Membership Voting

In order to have a democratic union there must be some method of electing the officials. At the shop level the elections for steward may be little more than popularity contests. At higher levels the elections deal primarily with issues. The union member either approves of the present policies or believes others should be followed. All elections are becoming votes of confidence or lack of confidence, and this is more true of a union election than of one for public office.<sup>58</sup> All that can be done is to "turn the rascals out."

The discharge of union functions cannot even be controlled by the membership. All they can do is to throw out one particular set of leaders -- but only to put in another, equally uncontrollable one. There is no way for a dissenting group to operate except by a campaign to turn out the incumbents. Union leadership may be compared to a system of government which has an elected executive without

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<sup>57</sup>Seymour Martin Lipset, Martin Trow, and James Coleman, Union Democracy, The Internal Politics of the International Typographical Union (Glencoe, Illinois: The Free Press, 1956), p. 300.

<sup>58</sup>Lloyd H. Fisher and Grant McConnell, "Internal Conflict and Labor-Union Solidarity," Industrial Conflict, ed. Arthur Kornhauser, Robert Dubin, and Arthur M. Ross (New York: McGraw-Hill Book Company, Incorporated, 1954), p. 143.

the control of an elected legislature or a judiciary. The only course open for the members is to follow the leader altogether or to repudiate him altogether.<sup>59</sup>

If an individual wants a particular policy followed, his first step is to inform his representative, whether he be public official or union official. If the official does not follow that policy, and the individual feels strongly enough about the issue, his only recourse is to vote for someone else and hope that that person will follow the desired course of action. If such is not the case, the procedure must be repeated.

Voting for officers, however, is not the only voting done by the union member. Although precise statistics are unavailable, the great majority of collective bargaining agreements are negotiated subject to a ratification vote by the membership.<sup>60</sup> The subject of ratification of collective bargaining agreements by the work force is covered in the following section.

#### Ratification of Agreements

Negotiators for the union are seldom given final authority to conclude an agreement in collective bargaining which will bind the union. In the union the authority flows upward; union negotiators must be delegated this authority specifically.<sup>61</sup> Most commonly, the negotiator is elected and given authority to negotiate an agreement, but he is denied the authority to make the final decision on the agreement. That authority is reserved by the workers. When the negotiator reaches an agreement with the company representatives, he must then return to the

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<sup>59</sup>Drucker, op. cit., p. 132. <sup>60</sup>Bok and Dunlop, op. cit., p. 78.

<sup>61</sup>Beal and Wickersham, op. cit., p. 163.



shop where the workers will vote on the contract as soon as a meeting for that purpose can be convened. All may vote on the contract which the local negotiator brings back. If the bargaining is on a nationwide scale, the normal procedure is that each local must approve the contract before they are bound by it.

The ratification problem grows out of the separation of the authority to negotiate an agreement from the power to make it binding. An apparent agreement made at the bargaining table can be repudiated at the ballot box. Such separation of authority not only complicates bargaining and adds a hurdle to concluding an agreement; it also divides responsibility, giving room for deception, evasion of responsibility, and misunderstanding.

Legally such separation of authority is not required, for ratification by membership vote is not required or even preferred by the law. The union is legally required to follow the procedures prescribed in its constitution for making collective agreements, but the choice of procedures is the union's.

Alternative methods for approving agreements which will avoid or reduce separation of the authority to negotiate and the power to bind are available and familiar to unions. Some unions give those who conduct negotiations the power to make an agreement final and binding. The negotiators may be regularly elected union officers or a negotiating committee specially elected for that purpose. Though the negotiators may be politically answerable to the union members, the agreement made at the bargaining table is binding.<sup>62</sup>

Some unions have special committees of elected representatives from various locals to approve the agreements made by the negotiators who are regularly elected members. This frequently occurs where negotiators have the power to bind the workers.

Ratification by direct vote of the membership is particularly dominant where the contract relates to a single locality, whether the contract covers a single plant or a local employer's association.... Where approval is in form by a delegate body, there is often in fact reliance on direct referendum; for delegates frequently take proposals back to their local membership, hold a referendum, and then cast their votes accordingly.

Union practices reflect attitudes that seem to be deeply rooted and

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<sup>62</sup>Summers, loc. cit., p. 79.

widespread in the labor movement. Most union officers favor submitting proposed contracts to membership votes, although there is widespread recognition of the problems and pitfalls, and sometimes an expression of bitterness because of repudiation by the membership. There is general agreement that 'voting by referendum' is more satisfactory than any arrangement that would deprive the membership of a direct vote, and that it is 'the only practical way of making contracts that will endure.'

The attitudes of union officers seem to be substantially the same as union members, both strongly favoring direct membership control. A recent published study showed that nearly 90% of union officers and members alike believed that the members should decide on the demands to be made in bargaining, that the members should be kept fully informed of developments during negotiations, and that the members should decide whether to accept or to reject the contract.<sup>63</sup>

It is understandable that the union officers do not want to have final binding authority, for many men shun responsibility and dislike having to make decisions. This situation fits them perfectly, for they can just struggle along until finally a contract is approved by the membership; they need not worry about making a decision because the membership makes it for them. It is also understandable that the membership also favors direct vote, for it is much easier to view the situation with hindsight than it is to decide ahead of time what is desired and then give the negotiators adequate instructions. Most employers do not like separation of negotiation and ratification. It is a misconception of the democratic process and is impractical for the bargaining process. Some, however, think ratification is a good idea because it prevents abuses and it develops a more competent leadership. The procedure of ratification may prevent abuses of power, for a lack of any power certainly cannot be abused. Ratification may not necessarily lead to better leadership, for leaders who are inexperienced in decision making may not be the best possible leaders. The purposes of ratification are

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<sup>63</sup>Ibid., p. 87.

are to increase the acceptability of an agreement and to provide some method for participation by the work force.<sup>64</sup> If a contract is ratified by the membership, it is, by definition, acceptable to the majority because it was approved by them. The reality of the danger that agreements unpopular with the membership will lead to disruptive dissension within a union and invite raids by rival unions is one of the reasons union officers favor membership votes.<sup>65</sup> As far as the employer is concerned, acceptance by their employees means stable labor relations. If the negotiators have bound the workers in a contract they do not like, the employer will find neither the productivity he was seeking nor the industrial peace. The negotiator, if he is to be given final approval authority, must insure that the contract to which he agrees is in accordance with the desires of the majority of his constituency.

1. Membership ratification helps assure and secure the acceptability of a collective agreement. The direct vote by the members can give a more accurate measurement of acceptability than can action by elected officials or delegates. 2. Rejection by referendum votes reveal troublesome problem areas in our collective bargaining institutions and structures. Rejection... demonstrates that its leaders or negotiators have so lost touch with the members as to miscalculate their desires, or have so failed to inform the members as to invite misunderstanding. 3. Ratification by vote of the members need not significantly impede the bargaining process.... 4. Ratification procedures in a number of unions contain defects that lead to unnecessary difficulties.<sup>66</sup>

Although ratification is fraught with problems, in the past this procedure has seemed easier to follow than to bother to go to the effort to make a workable procedure that does not involve ratification.

An affirmative vote is a member's willingness to be bound; the collective agreement becomes his, and he feels an obligation to uphold it. Even the negative vote has a willingness to obey based on support

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<sup>64</sup>Ibid., p. 87.    <sup>65</sup>Ibid., p. 83.    <sup>66</sup>Ibid., pp. 101-02.

of majority will. If there is no ratification, and the member does not feel that the contract reflects the will of the majority, then his duty to obey may be replaced by a justification to rebel.<sup>67</sup> If the contract does reflect majority will, however, the worker will feel the same moral compulsion as if it had been ratified. "...the meaningful function of ratification is to test the acceptability of a proposed collective agreement to those who are to be governed by its terms."<sup>68</sup> Acceptability is measured directly by a referendum vote; it is measured indirectly when the negotiators are given prior instructions by the membership or when an agreement is approved by delegates selected by the membership. For a proposal to be acceptable, benefits must be distributed among employee groups corresponding to the employees' own hierarchy of competing claims; and total benefits obtained are acceptable as balanced against costs risked by insisting on more. The benefits must be divided in accordance with the informal structure of the employee group, and doing so is an exercise in group psychology. The conduct of the negotiators and the agreements they reach will be influenced by the presence of the ratification process and the risk of rejection by the members.<sup>69</sup> Their actions are also shaped by the possibility of being voted out of office by the membership at the next election and by instructions the membership gives them prior to the beginning of bargaining in the form of a mandate. In ratification a "vote is meaningful only if the acceptability of an agreement is measured against the alternative of a strike."<sup>70</sup> Unless the alternatives are clear-cut and meaningful, a referendum will

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<sup>67</sup>Ibid., p. 85.    <sup>68</sup>Ibid., p. 82.    <sup>69</sup>Ibid., p. 88.

<sup>70</sup>Ibid., p. 90.

not be a reliable measure of acceptability.

There are many problems involved with the ratification of negotiated collective bargaining agreements by the workers. If they are to be given the power to decide whether an agreement reached at the bargaining table is to become a binding contract, then how shall the ratification process be constructed and administered to achieve its maximum value with a minimum disruption and distortion of collective bargaining?<sup>71</sup> The value of ratification is that it is an absolutely positive indication that the proposed contract is acceptable to a majority of the workers. Collective bargaining is intended to be a negotiation among representatives of labor and management to arrive at a mutually acceptable contract. This intent is frustrated when the labor representatives do not possess the power to agree to a proposal but only have the power to reject or propose alternatives. In some cases during negotiations an advisory vote of the membership is taken for the benefit of the negotiators, but this procedure runs the risk of a strike through miscalculation. Neither side knows when the other side is no longer willing to make further compromises.<sup>72</sup> A further problem is deciding who should be permitted to vote on a contract proposal. Those not directly involved should be denied the vote, and only those employees who face the alternatives of accepting the contract or going on strike should vote on the agreement.<sup>73</sup> Only a ratification vote given in the face of a strike is a true indication of the acceptability of an agreement. In such a vote the members permitted to vote should be those in the striking unit, so no one group holds a veto power.<sup>74</sup> The local union ratifies the col-

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<sup>71</sup>Ibid., p. 81.    <sup>72</sup>Ibid., p. 90.    <sup>73</sup>Ibid., p. 91.

<sup>74</sup>Ibid., p. 92.

lective bargaining agreement as a whole.

They cannot ratify parts of it and reject other parts. If any part of the agreement is so objectionable to the members that they will not swallow it, the whole agreement fails and the negotiators have to go back and try again. Their job is not complete until the whole of their work has met with membership approval.<sup>75</sup>

By having separate votes on contract and strike the union is dodging the alternatives, although the practice is common. There are normally many more votes against the agreement than in favor of a strike alternative. The members are saying that they do not like the proposal, but they do not want to go on strike about it. The negotiators have no alternative, since the members refused to strike, but to accept the agreement disapproved by the members. Thus the members can express dissatisfaction but disown responsibility. "The democratic process fails both to validate the agreement and to create any commitment by the members to be bound. The solution is self-evident: make explicit on the ballot and otherwise that voting against the contract is equivalent to voting for a strike."<sup>76</sup> As noted previously, however, the system of voting after-the-fact is not the only possible democratic procedure for obtaining member acceptance of collective bargaining agreements.

A fundamental question is whether union members are able to make an intelligent and responsible evaluation of a proposed bargain.<sup>77</sup> The issues in collective bargaining have become increasingly complex and require knowledge of technological developments and economic conditions of the industry. However, rejections have occurred where members were not informed; if issues are complicated, members tend to rely heavily on

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<sup>75</sup>Beal and Wickersham, op. cit., p. 194.

<sup>76</sup>Summers, loc. cit., p. 91. <sup>77</sup>Ibid., p. 98.

recommendations of leaders. Some people fear that union members will insist on unrealistic demands; however, studies of rejection show that when members vote down a contract endorsed by their negotiators, it is not because the package is not big enough, but because it lacks (or contains) certain things, or because it was not distributed equitably.<sup>78</sup> It may also fail because a secret ballot is not used, and the workers are swayed by fear of co-worker disapproval if they fail to vote the way the others vote. Members are usually less aggressive than international representatives and will settle for less because they have more to lose.

There is a fear that members will rigidly resist automation or other technological changes that threaten job security. Those affected are usually in a minority, and the remainder are not willing to sacrifice for their fellow workers; they measure a contract on what it means to them personally. Although rejection does not occur frequently, such rank-and-file rejections of proposed contract settlements are destructive to collective bargaining. "It is a backward step to replace negotiation by competent and informed men with emotionalism and mob rule."<sup>79</sup> The union membership as a whole is certainly less qualified to evaluate a contract proposal than the negotiators themselves, and the intended purpose of ratification of collective bargaining agreements by the union membership, that of acceptability, may be obtained in other ways.

#### Settlement Rejection

The rejection of a proposed contract negotiated through collective bargaining represents a breakdown in the system. Although such

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<sup>78</sup>Ibid.    <sup>79</sup>Rukeyser, op. cit., p. 81.

rejections occur with only moderate frequency, the fact that they do occur at all is a procedural failure that may be avoided. In 1961 the big Kenosha, Wisconsin, local of the United Auto Workers rejected the profit-sharing agreement worked out by the managers of American Motors Corporation and UAW leaders.<sup>80</sup> Also in 1961 the members of the New York Philharmonic Orchestra went on strike when presented by their local officers with a signed agreement. They complained that they had not participated in the negotiations.<sup>81</sup> In 1964, longshoremen in New York had a six months negotiation, a strike, an 80 day Taft-Hartley "cooling-off" period, and a rejection of the employers' last offer, an agreement reached which was described by union officers as "the best contract ever won in the history of the union." Two days after negotiators agreed on the contract the membership voted 8508 to 7561 against, even though their leaders strongly urged ratification. This triggered a strike at all Atlantic and Gulf ports. A revote in New York approved the settlement. After a campaign to educate the members, the contract was approved in New York. The Baltimore and Miami locals both initially rejected their settlements. Baltimore approved theirs after a minor modification, and Miami did likewise after the local union president reversed his stand.<sup>82</sup>

In 1963 the New York Typographers rejected an intricately negotiated agreement and continued their 100-day strike another two weeks. An insurgent faction of the union president's 'hard-line party' derided the economic benefits as too niggardly and the protective clauses as too weak.<sup>83</sup>

In 1964 the Chicago taxicab drivers rejected a settlement which the mayor and federal conciliators had presented to employer and union

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<sup>80</sup>Chamberlain, op. cit., p. 196. <sup>81</sup>Ibid., pp. 195-96.

<sup>82</sup>Summers, loc. cit., pp. 75-77. <sup>83</sup>Chamberlain, op. cit., p. 195.



leaders. In 1966 the airline mechanics rejected a contract which the President of the United States had helped negotiate; they accepted a second contract containing substantially increased benefits.<sup>84</sup> Inasmuch as rejection of proposed agreements do occur, it is necessary to examine the reasons for rejection.

Failure of downward communication from union officials to union members is usually a failure to realize that an agreement must be explained to the members or that it be explained adequately. Not only must the members have the contract explained to them, they must be convinced that they should ratify it. The negative vote in the 1965 New York longshoremen settlement was due to

...misunderstanding and to a lack of full information on the part of the union members. The reduction in work gangs created a fear for loss of jobs; there was no full understanding of the 1600 hour guarantee; and the provision giving employers 'flexibility' in assigning workers was distrusted because the members had not been told the narrow interpretation agreed upon in negotiations.... Analysis of the vote showed that at those piers where the contract was fully explained, the workers voted to accept it, but that where it was not fully explained, it was voted down.<sup>85</sup>

Only after the contract was fully explained were the members willing to accept their leaders' judgement and vote to accept the contract.

...the most common cause of rejection is that the communications structure within a union has failed to function. Breakdown may be in the communications upward from the members to the negotiators, that is, the negotiators fail to understand the members' system of priorities. ...on the other hand, the breakdown may be in the communication downward from the negotiators to the members: the negotiators fail adequately to inform the members of the terms of an agreement and of the considerations that make it acceptable.<sup>86</sup>

Just as failure adequately to explain the contract to the workers and to convince them to accept the contract may lead to rejection, so also will

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<sup>84</sup>Summers, loc. cit., p. 77. <sup>85</sup>Ibid., p. 76.

<sup>86</sup>Ibid., pp. 92-93.

failure of the members to transmit clearly their beliefs and desires to their representatives result in a proposed contract which is unacceptable and that is subsequently not ratified.

Failure of communications either upward or downward, however, is not the only reason for rejection of proposed collective bargaining agreements. The frequent rejection by the membership of contract settlements recommended for acceptance by the leadership in the last several years has been influenced in some way by the psychological attitude of the members that due to the Landrum-Griffin Act they may speak up freely and challenge leadership authority.<sup>87</sup>

Many cases of membership rejections are the result of the negotiators' failure to take a firm stand in support of an agreement. Most members are willing to give great weight to recommendations of negotiators, but if those recommendations are halfhearted or the negotiators 'ride the fence,' a vacuum is created into which the opposition can move and assert leadership.<sup>88</sup>

In addition, younger members are becoming more numerous; they did not work during the Depression. Thus, they have little patience with traditional collective bargaining methods and an almost total lack of identification with the employer's interests. The ratification process is no longer a rubber stamp by the members after an agreement is reached with designated union officials.<sup>89</sup>

Where employee restraining pressures are strong enough, a union cannot make the concessions necessary to reach agreement. Not only is a settlement agreed upon in the face of employee opposition likely to be rejected in an employee ratification vote, but the union nego-

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<sup>87</sup>Rukeyser, op. cit., p. 79.

<sup>88</sup>Summers, loc. cit., p. 96.

<sup>89</sup>Vincent R. D'Alessandro, "Labor Relations in a Critical Area," Dealing with a Union, ed. LeRoy Marceau (American Management Association, 1969), p. 12.

tiators reaching such an agreement may be voted out of office.<sup>90</sup>

Under some circumstances rejection may be intentional and desired by the union leadership.

1. The union negotiators may pretend at the bargaining table to agree but then... urge rejection in order to justify added demands. Submission is but a bargaining ploy; and the negative vote is part of a planned maneuver.
2. The union negotiators may reject the employer's proposals, but consent to submit them to the membership, often at the employer's insistence. Submission is an attempt to bypass the union leadership, and a negative vote is not a repudiation but an expression of confidence in the negotiators.
3. The union negotiators may submit a tentative agreement to vote without any strong recommendation for acceptance or rejection in order to sound out the membership. A negative vote is neither a repudiation nor an expression of confidence but instructions to the negotiators to try for more.<sup>91</sup>

The purpose of ratification of a proposed collective bargaining contract is to test its acceptability, but this is often obscured by the system used. The next question to be appropriately asked is with what frequency do rejections of negotiated collective bargaining agreements occur.

The local membership has failed to ratify an increasing number of collective bargaining agreements negotiated by national officers.<sup>92</sup> One study determined that about ten percent of the proposed settlements have been rejected by the rank and file membership.<sup>93</sup> This figure agrees with that of another study which found that in 90 percent of the cases the union members follow the lead of their negotiators.<sup>94</sup> These surveys agree under the assumption that the negotiators want to have the pacts ratified. It excludes the devious tactics of intentionally desiring

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<sup>90</sup>Kenneth Roberts, "The Bargaining Impasse," Dealing with a Union, ed. LeRoy Marceau (American Management Association, 1969), p. 183.

<sup>91</sup>Summers, loc. cit., p. 78. <sup>92</sup>Rezler, op. cit., p. 137.

<sup>93</sup>Kukeyser, op. cit., p. 78. <sup>94</sup>Summers, loc. cit., p. 88.

rejection for bargaining purposes. Summers also states that there are no exact figures on how often the membership has voted down a contract proposal. Estimates of the frequency of occurrence vary widely, somewhere between five and thirty percent. The belief is commonly held among both union and employer spokesmen that the number is substantial and that it has increased markedly in recent years. He also notes, however, that rejections "do not all have the same significance, for a negative vote by union members does not always signify repudiation of the union negotiators. Contracts may be submitted to membership vote for purposes and with expectations other than gaining approval of the members."<sup>95</sup> Whether or not the particular rejection involves repudiation of the union leadership, it always upsets the collective bargaining process and normally results in a work stoppage or an extension of one.

In recent years rejection of negotiated agreements has ceased to be uncommon. The Federal Mediation and Conciliation Service estimates that in over 750 situations in 1962, rank-and-file union members rejected settlements negotiated and approved by their leaders.<sup>96</sup>

Contract rejection continues to be a problem.

Of the 7,500 contracts federal mediators handled between mid-1965 and mid-1966, ten percent were vetoed by the members after their leaders agreed on the terms; the figure has apparently never been higher.<sup>97</sup>

In 1966 the rejection figure was close to twelve percent.<sup>98</sup> The percentage of rejections continues to be high. In 1970 the Chicago local of the Teamsters Union rejected the pact that had been negotiated by the

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<sup>95</sup>Ibid., p. 78. <sup>96</sup>Beal and Wickersham, op. cit., p. 194.

<sup>97</sup>Rukeyser, op. cit., p. 78.

<sup>98</sup>Joseph Shister, "The Direction of Unionism, 1947-1967: Thrust or Drift?" Industrial and Labor Relations Review, XX, no. 4 (July, 1967), p. 579.

national officers; the proposal subsequently agreed to was much more lucrative.

In this chapter it has been shown that American unions are democratic in that the members elect their leaders and that majority rules. If the members become dissatisfied with the leaders, they may attempt to convince the leaders to change their ways, they may elect new leaders of the same union at the next election, they can hold a new certifying election and change unions, or they can decide to have no union at all. The members are well aware of what the leader is doing because the latter is under constant scrutiny. The rights of the majority must necessarily transcend those of the minority as long as the latter's rights are not violated with prejudice and as long as they may voice their dissatisfaction with the actions of the majority. The most important such violation occurs when the majority votes for a union shop and thereby forces the dissenting minority to join the union against their will or lose their jobs.

In addition, it has been noted that those union officials who negotiate collective bargaining agreements are either regularly elected officials or are specially elected for that purpose. They are sent to the bargaining table to meet with the representatives of management, but they normally do not have the authority to bind the union to any contract that is agreed upon. That power, instead, is reserved by the workers. After the union and management representatives agree to a contract, it is taken back to the plant where the workers vote for or against ratification. This separation of authority is not required by law, is detrimental to the bargaining process, leads to work stoppages, and is not based upon the democratic processes followed by the federal, state, or

local governments. An analysis of the problems involved with contract ratification and their relationship with the union shop follows in the next chapter.

## CHAPTER IV

### ANALYSIS OF THE PROBLEMS

The union claims to be the government of the work place. It is undoubtedly more valid for the union to make this claim than for any other group to do so. The union provides many governmental type services for its members. It also generally provides them for the non-union members who belong to the bargaining unit. Some people feel that these services are well worth their cost. Others believe that the services are not worth what they cost, that the member is not getting his money's worth. These costs are borne by the union member, by the firm, and by the society. Whether or not these costs are justified by the services which unions perform is a purely judgemental matter and is beyond the scope of this paper. Nonetheless, unions, where they are present, do function as the government of the work place.

The workers choose which union will be the one which will serve as their government. Unlike public office, however, they have the additional option of voting not to have any union at all. When employees decide not to have any union represent them, then collective bargaining will not take place. Instead, employees will deal with the employer on an individual basis. For this reason, the case where the employees opt for no union is also beyond the scope of this paper.

This paper has examined what happens to the collective bargaining procedure if the employees choose to organize and have decided upon

their union and their individual representatives. Which union they choose as their bargaining agent and which individuals they choose as representatives are immaterial. The only concern is that they have chosen a bargaining agent.

Having been chosen as the bargaining agent in a certification election, the union is then authorized to enter into collective bargaining negotiations with representatives of the firm. Those aspects of collective bargaining other than the negotiation of a labor-management contract have not been analysed. When entering into contract negotiations, each side is "armed" with lists of demands which it wants to be included in the final contract. Each item on the list is assigned a priority indicating how strongly that side wants it and how readily they will abandon it when pressed by the other side. The process of negotiation can be called give-and-take, "horse-trading," and compromise. For each side it involves giving up demands for their lower-priority items in return for acceptance of their higher-priority items. The individual demands may change as the high-priority demands of the two sides are in direct competition. The agreement that is finally produced is the result of a series of compromises. The threat of a strike or the continuation of one has a strong influence on the negotiations. Which side is hurried more depends upon their relative economic strength.

The proposed contract, agreed upon by the representatives of the firm and the union, is a rational product. The representatives of both sides are aware of the economic condition of the firm, of the industry, and of the economy. These facts determine whether or not a particular demand of the union is economically feasible. The company cannot reasonably be expected to agree to proposals which it cannot afford. There



will be, naturally, disagreement over how much the company can afford to include in the contract. The compromise agreement on this issue must be made with a full knowledge of the relevant economic conditions.

The normal procedure, followed by the vast majority of American unions, is for the union to submit the proposed contract to its membership for ratification. The primary purpose of the use of ratification is to insure that the proposed contract is acceptable to the majority of the union members. In addition, ratification may provide them with a sense of participation in the decision making process. From time to time both the union and management negotiators may use ratification as a bargaining tool. This purpose would be secondary, at best.

If the membership approves the proposed contract, then both the union and the firm will be bound by its conditions for a specified period of time. If the membership disapproves the proposed contract, then the most likely result is a strike. Under any circumstances a work stoppage involves monetary loss for the firm in income, the union in strike payments, and the individual workers in pay. A work stoppage as a result of failure to ratify a proposed contract means unnecessary loss. The loss is unnecessary because it would have been avoided if the contract had been acceptable to the membership. If the union negotiators are given the power to bind the union to the contract agreed upon by both them and the management representatives, the procedure of submitting the contract to a vote of the members will not be followed. By eliminating this step, there will be no strikes over failure to ratify the contract. To be sure, the workers can stage a wildcat strike, but such stoppages not sanctioned by the union are infrequent occurrences; and the workers are not able to remain on strike as long as they can during a sanctioned

strike. As such, the wild-cat strike is not a significant factor. Elimination of the ratification of collective bargaining agreements would result in fewer work stoppages. How would this course of action affect the basic purposes of ratification, acceptability of the contract to the workers and their participation in the decision-making?

The submission of collective bargaining agreements to the workers for ratification is not the only, nor is it necessarily the best, way of achieving the goals of contract acceptability and decision-making participation by the work force. Participation in the decision-making process is, perhaps, a cornerstone to insuring contract acceptability and should, therefore, be examined first. When ratification is employed, the participation of the membership consists of approving or disapproving a proposed contract. The union negotiators form a contract which is a compromise between their interpretation of the desires of the workers and the concessions of the management. This interpretation may or may not be accurate. In addition, worker participation under ratification is limited to an after-the-fact decision; they must either accept or reject the entire proposal. There is no opportunity for them to vote "yes" on parts of the contract and "no" on others. Moreover, if the membership does reject the proposal, there are no formalized methods of informing the union negotiators just what portions of the contract were unacceptable and what alternatives they would prefer. Instead, the negotiators must return to the bargaining table and try changing the proposed contract to make it "better" and "acceptable," as the union membership view it.

It would be far better for the membership to participate before and during the negotiations rather than only after they are concluded.

Prior to the beginning of negotiations, the union membership could indicate to their leadership the provisions they would like to have included in the contract and the priority attached to each. During the negotiations the union representatives could report the progress to their constituency. The membership could alter the priorities of their desires, as necessary, and transmit this information to the negotiators. Participation by the union membership before and during the conduct of the negotiations is participation in its fullest sense.

By establishing procedures for full and meaningful participation by union members in the negotiation process, the cornerstone is laid for insuring contract acceptability. If the membership keeps the negotiators informed of their desires and priorities, the latter will be able to use these continually in the shaping of the union's demands. Conversely, if the negotiators constantly keep their constituency informed of the progress of the negotiations, the latter will be aware of whether or not a given provision has a chance of being accepted by the firm; and they can adjust their expectations accordingly. This procedure may be difficult to implement in the giant locals such as the UAW, but it could be done with few problems in the normal union. As long as the expectations of the members corresponds to the reality of the negotiating situation, the contract which emerges from the negotiations will necessarily meet with the complete acceptance of the members. When the union membership has participated fully in the collective bargaining process and the resulting contract is acceptable to them, there is no need to ratify that contract.

It may be argued that the lack of a ratification step in the collective bargaining process may inhibit the union agent during nego-

tiation by giving him less flexibility, and that as a result he may fail to agree to a proposal if he feels that the members did not want him to go that far. At the present time the union representative can use the ratification vote as a negotiating tool. He can shift responsibility, on the surface, from himself to the membership. He can pretend to agree to an obviously unacceptable contract and submit it to ratification knowing that it will be rejected. When it is rejected, he can point an accusing finger at the membership of the union while at the same time claim to be innocent of any guilt. He is guilty, however, of unnecessarily extending the total time required to reach a final collective bargaining agreement. He is also responsible for any resulting work stoppage. To the extent that the union agent would no longer be able to use contract ratification as a tool of negotiation, the lack of that step in collective bargaining would give him less flexibility. He would, therefore, be forced to refuse to agree to proposed contract provisions which he knows would be unacceptable to the union membership. He would be shouldering the responsibility himself. He would, however, possess full and up to date knowledge of the expectations of the membership which were shaped by the information he provided them concerning the conduct of the negotiations. This open exchange of information between representative and constituency would not only influence their actions and expectations, but it would also influence the actions and expectations of the management representatives. With the negotiators of both sides aware of the aspirations of the membership, and knowing that an informed membership is taking a realistic view of what is feasible, a compromise agreement including the essential requirements of each side and conforming to the expectations of the union membership can be reached without undue dif-

ficulty.

Elimination of the ratification of proposed contracts may have other practical effects on the negotiation process, each of which must be evaluated. First, would the length of the negotiation process be changed? At present, the negotiation period should be measured not by the time it takes the negotiating teams to reach agreement but by the time it takes for the proposed contract to be accepted by the membership through ratification. Without ratification it would take longer for the two sides to reach agreement than it does with ratification, but the contract agreed upon would be final at that point. When comparing the times required to reach a final agreement with and without ratification, there should be no significant difference; for the time required for membership ratification of the proposal would amount to the difference.

Secondly, would the union agent be more reluctant to make decisions without ratification than he is with it? Under neither set of circumstances does the union representative want to make an unpopular decision, for it is his success at the bargaining table that is the principal means used by the membership for measuring his efficiency. The unpopular agent will find himself voted out of office at the next election. With ratification, unpopularity is determined by the ratification or rejection of the proposed contract. Without ratification, unpopularity would be immediately apparent to the negotiator through the two-way communications that are present during negotiations. Because he is cognizant of the aspirations and expectations of the union membership, and because he has helped to shape them by providing the members with the progress of the negotiations, the union agent should be willing to

make the decisions for the union and its members during collective bargaining. He will be confident that his decision will be the proper one in that it will be based on his knowledge of the economic conditions of the firm, the industry, and the economy. It will also be proper in that it will be acceptable to the membership who have participated in the decision making process through open, two-way communications.

Thirdly, would the business agent be more secure without ratification than he is with it? Inasmuch as the ratings of union leaders are a reflection of their success at the bargaining table, their security is linked to the negotiations they conduct. If, with ratification, the agent submits to the membership proposals which are consistently rejected because he has lost contact with his constituency, he will find his tenure extremely short. His security will be directly proportional to the acceptability to the membership of the collective bargaining agreement which he negotiates. Similarly, without ratification the security of the business agent will be proportional to his success in negotiations. Because in this case, however, ratification has been replaced by adequate communications between the membership and their representative, the latter will be able to conduct successful negotiations by making contract proposals which are acceptable to the former, due to membership participation in the negotiation process.

The replacement of contract ratification by the membership with open communications between the business agent and his constituency would be an improvement over ratification for several reasons. First, the number of strikes over failure to accept a collective bargaining agreement through ratification would be greatly reduced. Secondly, the members' informing their representative of their desires and priorities

and his informing them of the conduct of the negotiations would constitute full and meaningful participation by the workers in the decision making process. Thirdly, this participation would insure complete acceptability of the contract to the membership because it would correspond with their expectations of what the contract should contain. Lastly, labor-management relations would improve due to the effect on the union shop.

At present one of the many sources of irritation between the union and management is the former's demand for the union shop. The situation is complex, involving the federal Taft-Hartley Act, various state "right-to-work" laws, and various management and union practices. The principal arguments for and against the union shop have been previously discussed. Suffice it to say that any change which would the friction between the firm and the union would be an improvement.

Under present practice all members of the bargaining unit are permitted to participate in union certification elections. This includes both union and non-union members. Inasmuch as the non-union member did not join the union which was certified, it is reasonable to assume that he voted against any union and, therefore, did not have any real voice in choosing which union would be the bargaining agent. Nor may he choose which individuals will serve as his representatives, since these men are union officers. The non-union worker, however, is still considered to be a member of the bargaining unit.

Without ratification of collective bargaining agreements the union representatives will have complete authority to bind the workers to a contract. The members of the bargaining unit will have no recourse. This means that without ratification the non-union worker will have no

say whatsoever in the bargaining agreement. He will, therefore, be highly motivated to join the union that is the exclusive bargaining agent in order to obtain some voice in the bargaining process. If the workers all want to belong to the union of their own volition, the union will no longer be forced to press the management on this issue, thus improving labor-management relations.



## CHAPTER V

### CONCLUSION

The ratification of collective bargaining agreements by the workers is common practice in American industry. This procedure results in miscalculation by the union representative of the desires and priorities of the workers. This miscalculation results in proposed contracts which are unacceptable to the workers who reject them at the ratification vote. A ratification vote is either synonymous with or accompanied by a strike vote. Contract rejection, therefore, normally means that the workers go on strike or continue the existing one. The elimination of the ratification step in the bargaining process would be a procedural improvement.

Whereas contract ratification is an after-the-fact approval and rejection is an after-the-fact disapproval of the proposed contract, the substitution of upward and downward communications between the union members and their officers allows involvement of the work force before the final agreement is made. Prior to the opening of the bargaining sessions, the union membership could be polled by their officers. The "ballot" could contain the various proposed provisions which the union officials feel are desirable. The membership could be asked to add any additional provisions which they would like and to list all the provisions in order of priority. The union negotiator could then take this information with him to the bargaining table. As negotiations progressed, he could keep

the workers informed of what provisions had been agreed upon and what ones had no chance of adoption. The membership could then advise their representatives of any changes in their priority of desired provisions.

The recommended procedural change would mean that the union members would participate in the union's decision making process to a meaningful degree. The change would also mean that contracts negotiated through collective bargaining would be acceptable to the work force. It would not involve any reduction in the flexibility of the union agents; on the contrary, they would be better able to represent the interests of their constituents. The length of time taken to conduct negotiations should not be changed, for the added time during negotiations to reach agreement would be saved by not having a ratification vote and possibly more negotiations. The agent would be no more reluctant to make decisions at the bargaining table because he would be confident in his knowledge of the attitudes of the members. He would be secure in his position because agreements acceptable to the membership means security for the union representatives. Elimination of ratification would result in more workers joining the union in order to gain a voice in the negotiations. This would allow the union to stop pressing the management for a union shop, thus relieving some of the tension in labor-management relations.

A union cannot expect to behave responsibly as long as it fears for its existence and survival. It cannot assume responsibility for wage policy. It cannot accept restraints on the use of the strike weapon. Above all, it cannot assume responsibility for the survival and profitability of the enterprise, cannot acknowledge management's authority as legitimate and necessary, and cannot enforce the contract upon its members. Without the feeling of security the union is bound to be disruptive to society and to the enterprise alike.<sup>99</sup>

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<sup>99</sup>Drucker, op. cit., pp. 122-23.

With the elimination of the hinderance of ratification to collective bargaining and the resulting change in the desire of workers to join the union, unions will be more secure, and thus more responsible, to the mutual benefit of the worker, the firm, and society.

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